

AMENDMENTS TO THE DRAWINGS

The cross-hatching in the Figures has been amended as requested by the Examiner.

Original FIG. 21 is now labeled as FIGS. 21(a) to (c).

FIGS. 21(a) to 23 are labeled as --Prior Art--.

Attachment: 11 Replacement Sheets

REMARKS

Claims 1-18 are all the claims pending in the application. Claims 1-18 presently stand rejected. The Examiner has withdrawn the previous election of species requirement.

Claims 1 and 2 are independent claims.

Drawing Objections

The Examiner has objected to the drawing figures filed January 17, 2006.

(1) The Examiner objects to the drawings because “a sealed container...comprising a thermoplastic resin” and “a surface layer comprising a thermoplastic elastomer or a thermosetting elastomer” and “a needle pipe insertable portion comprising a thermoplastic elastomer or a thermosetting elastomer” must be shown or the features canceled from the claims. In response, Applicant has amended the cross-hatching of the Figures to show that the container is made of the recited materials.

(2) The Examiner objects to the drawings because that the drawings fail to show the crosshatching as plastic material in the cross sectional views described in the specification. In response, as discussed above, Applicant has amended the cross-hatching of the Figures to show that the container is made of the recited materials.

(3) The Examiner contends that FIGS. 21, 22 and 23 should be designated with a legend such as --Prior Art--. In response, Applicant has labeled these Figures as --Prior Art--.

(4) The Examiner has objected to the drawings because they are improperly numbered since the figures contain multiple views within one figure. In response, Applicant has labeled original FIG. 21 as *FIGS. 21(a) to (c)*.

In view of these amendments, Applicant respectfully requests the Examiner to withdraw the objections to the drawings.

Claim Rejection Under 35 U.S.C. § 112

Claims 1-18 are rejected under 35 U.S.C. § 112, second paragraph.

Claim 1

With respect to independent claim 1, the Examiner asserts that the recitation that the leg portion A of the stopper has “a deflection temperature under load of 60°C or more under a load of 0.45 MPa or 0.46 MPa” is indefinite. In response, Applicant has amended claim 1 to recite that:

- (1) *at least a portion of the leg portion B of the stopper*, which contacts the container, has a deflection temperature, under a load of 0.45 MPa or 0.46 MPa, of 60°C or more, and
- (2) *at least a portion of the container*, which contacts the leg portion A of the stopper, has a deflection temperature, under a load of 0.45 MPa or 0.46 MPa, of 60°C or more.

This amendment does not change the scope of the claimed subject matter. That is, claim 1 recites deflection temperatures for both (1) a portion of the leg portion B that contacts the container, and (2) a portion of the container that contacts the leg portion A. In addition, Applicant respectfully submits that the phrase “deflection temperature,” is a characteristic thermal property of thermoplastic materials. For example, both the eFunda Polymer data sheet and the MatLab data sheet use the phrase “deflection temperature” to indicate the temperature at which a polymer or plastic sample *deforms under a specified load*.

Claim 2

With respect to independent claim 2, the Examiner asserts that the recitation that a “deflection temperature under load of at least a portion of the leg portion B of the stopper contacting with the container under a load of 0.45 MPa or 0.46 MPa is higher than a deflection temperature under load of at least a portion of the container contacting with the leg portion A of the stopper under a load of 0.45 MPa or 0.46 MPa” is unclear. In response, Applicant has amended claim 2 to recite that:

a deflection temperature, under a load of 0.45 MPa or 0.46 MPa, *of at least a portion of the leg portion B of the stopper*, which contacts the container, is higher than a deflection temperature, under a load of 0.45 MPa or 0.46 MPa, *of at least a portion of the container*, which contacts the leg portion A of the stopper.

Therefore, claim 2 recites a relationship between the deflection temperatures of (1) a portion of the leg portion B that contacts the container, and (2) a portion of the container that contacts the leg portion A.

Claims 7 and 14-18

With respect to claims 7 and 14-18, Applicant has amended these claims to recite ~~the~~ sealed container according to claim-. Therefore, these claims are proper dependent claims as they include all of the recitations of a preceding claim. As for the Examiner’s contention that a dependent claim cannot include a different preamble, Applicant respectfully submits that there is no such requirement. In fact, the MPEP itself at MPEP §821.04(b) refers to “process claims which depend from or otherwise require the limitations of an allowable product claim”¹ As

¹ See MPEP at page 800-69, at paragraph bridging the columns.

such, a proper dependent claim (e.g., method claim) can have a different preamble than the claim from which it depends (e.g., product claim).

In view of the amendments and arguments discussed above, Applicant respectfully requests the Examiner to withdraw the rejection under 35 U.S.C. § 112.

Claim Rejections Under 35 U.S.C. § 102 and 103

Claims 1-3, 5-7, 9, 11, 13-15, 17 and 18 are rejected under 35 U.S.C. § 102(b) as being anticipated by Anraku et al. (EP 1064879A1).

Claims 4, 8, 10, 12 and 16 are rejected under 35 U.S.C. § 103(a) as being obvious over Anraku.

Independent claim 1

Independent claim 1 recites that that a leg portion B is extended downward from the head portion of the stopper, is provided along an *external wall surface* of the open end of the container, and is capable of exerting a fitting force to the external wall surface. A leg portion A is also extended downward from the head portion of the stopper, but is provided along an *internal wall surface* of the open end of the container and is capable of exerting a fitting force to the internal wall surface.² Claim 1 also recites that:

- (1) *at least a portion of the leg portion B of the stopper*, which contacts the container, has a deflection temperature, under a load of 0.45 MPa or 0.46 MPa, of 60°C or more, and
- (2) *at least a portion of the container*, which contacts the leg portion A of the stopper, has a deflection temperature, under a load of 0.45 MPa or 0.46 MPa, of 60°C or more.

² See, for example, the exemplary embodiment at FIG. 2. Leg portion A is the inner portion 30, and leg portion B is the outer portion 40.

If these portions A, B have deflection temperatures of less than 60°C, the creep speed of the stopper becomes very high when the sealed container is stored for a long period of time in summer, and the fitting force between the container and stopper is reduced.³

Applicant respectfully submits that Anraku does not disclose all of the claim's recitations.

The Examiner asserts that, referring to FIGS. 1 and 4 of Anraku, the fitting portion 4 corresponds to the recited "leg portion A" and the cover 6 of Anraku corresponds to the recited "leg portion B." However the leg portion B of claim 1 is different from the cover 6 of Anraku. That is, the leg portion B of claim 1 is extended downward from the head portion, *is provided along an external wall surface of the open end of the container, and is capable of exerting a fitting force to the external wall surface.* However Anraku does not disclose anything regarding the cover 6 as being provided along the external wall surface of the blood collection tube 10 or being capable of exerting a force on the external wall surface.⁴ Instead, Anraku merely discloses:

The provision of the cover 6, as in the embodiment shown in Figure 4, serves to provide a wider finger grip region on the closure structure 2, resulting in the improved attaching and detaching operations. The cover 6 length may be dimensioned so that its distal end extends further downward to fully cover the fitting portion 4. Such design shuts off the blood, if caused to splash when the closure structure 1 is detached from the blood collection tube.

Such a cover 6 can be integrally formed with the grip section 2.

³ See original specification at paragraph bridging pages 9 and 10.

⁴ See Anraku at page 11, paragraphs [0081] and [0082].

As such, the cover 6 of Anraku cannot reasonably correspond to the recited leg portion B of claim 1. In addition, Anraku only discloses a material of the cover 6, *but never discloses a deflection temperature of the cover 6.*

Moreover, with respect to Anraku's blood collection tube 10 (i.e., "container"), Anraku only discloses the material or an oxygen permeability coefficient *of the blood collection tube 10.*⁵ Anraku never discloses a *deflection temperature* of the blood collection tube 10.⁶ Therefore, it appears to be the Examiner's position that "an oxygen permeability coefficient" corresponds to the recited *deflection temperature*. However, these characteristics are quite different.

Therefore, for the reasons discussed above, Applicant respectfully requests the Examiner to withdraw this rejection.

Independent claim 2

Like claim 1, independent claim 2 recites that that a leg portion B is extended downward from the head portion of the stopper, is provided along an *external wall surface* of the open end of the container, and is capable of exerting a fitting force to the external wall surface. A leg portion A is also extended downward from the head portion of the stopper, but is provided along an *internal wall surface* of the open end of the container and is capable of exerting a fitting force to the internal wall surface. Claim 2 also recites that:

a deflection temperature, under a load of 0.45 MPa or 0.46 MPa, *of at least a portion of the leg portion B of the stopper*, which contacts the container, is higher than a deflection temperature, under a load of 0.45 MPa or 0.46 MPa, *of at least a portion of the container*, which contacts the leg portion A of the stopper.

⁵ See Anraku at paragraphs [0074] and [0076].

⁶ See Anraku at paragraphs [0049], [0053], [0059] and [0133].

If the deflection temperature of the portion of the leg portions B is higher than the deflection temperature of the portion of the container, the internal diameter of the open end of the container is prevented from being expanded due to a fitting force from outside the container by the leg portion B. This prevents the stopper from coming off.²

Applicant respectfully submits that Anraku does not disclose all of the claim's recitations.

As discussed above with respect to claim 1, the cover 6 of Anraku cannot reasonably correspond to the recited leg portion B. In addition, Anraku only discloses a material of the cover 6, *but never discloses a deflection temperature of the cover 6.*

Moreover, there is no disclosure at all in Anraku regarding the recited relationship between the deflection temperatures of the recited portion of the leg portion B *and the recited portion of the container.* In fact, Anraku never discloses a *deflection temperature* of the blood collection tube 10.³

Therefore, for the reasons discussed above, Applicant respectfully requests the Examiner to withdraw this rejection.

Dependent Claims

Applicant respectfully requests the Examiner to withdraw these rejections of dependent claims 2-18 at least because of their dependency from claim 1 or claim 2.

² See original specification at page 10, first full paragraph.

³ See Anraku at paragraphs [0049], [0053], [0059] and [0133].

New Claim

Finally, Applicant has added a new dependent claim 19 to provide additional claimed subject matter. Applicant respectfully submits that claim 19 is patentable at least because of its dependency from claim 2.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

/John M. Bird/

John M. Bird
Registration No. 46,027

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Date: December 8, 2008